

Message Text

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PAGE 01 NAIROB 03185 211426Z

43

ACTION IO-10

INFO OCT-01 AF-06 ARA-06 ISO-00 IOE-00 ERDA-05 AID-05

CEA-01 CIAE-00 CIEP-01 COME-00 DODE-00 EB-07 FEAE-00

FPC-01 H-02 INR-07 INT-05 L-02 NSAE-00 NSC-05 OMB-01

PM-03 SAM-01 OES-03 SP-02 SS-15 STR-04 TRSE-00 FRB-03

SSO-00 NSCE-00 USIE-00 INRE-00 EA-06 EUR-12 NEA-09

PA-01 PRS-01 /125 W

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O R 211015Z APR 75

FM AAZEMBASSY NAIROBI

TO SECSTATE WASHDC IMMEDIATE 2430

INFO USMISSION USUN NEW YORK

USMISSION GENEVA

AMEMBASSY BUENOS AIRES

AMEMBASSY BRASILIA

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E.O. 11652: N/A

TAGS: BR, AR, UNEP, SENV

SUBJECT: UNEP, GC/III, FWEM 13, SHARED NATURAL RESOURCES

SUMMARY: ARGENTINA AND BRAZIL BOTH CIRCULATING INFORMAL-
LY DRAFT RESOLUTIONS IN CONTINUATION OF THEIR LONG-STANDING
COMPETITION THIS ISSUE. MEXICO, CANADA, AND
YUGOSLAVIA LISTED AS CO-SPONSORS OF ARGENTINE DRAFT AND
LIST WILL UNDOUBTEDLY GROW LONGER IF PRIOR EXPERIENCE
HOLDS. FULL TEXTS BOTH DRAFTS TRANSMITTED SEPTTEL.
USDEL BELIEVES PRINCIPAL PARTIES MAY HAVE INCHEDED CLOSER
TO POSSIBLE ACCOMODATION ON NEXT COURSE OF ACTION,
EVEN THOUGH SUBSTANTIAL DIFFERENCES APPARENT IN DRAFTS,
AND PARTIES MAY WELL BE AS FAR APART AS EVER ON BASIC
POINTS OF SUBSTANCE. NEVERTHELESS, USDEL SEES POS-
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PAGE 02 NAIROB 03185 211426Z

SIBILITY OF COMPROMISE SOLUTION SO FAR AS GC III ACTION

CONCERNED. IN ANY EVENT, DEL CONCERNED THAT IT BECOM-
ING INCREASINGLY DIFFICULT FOR US TO STRADDLE FENCE ON
THIS ISSUE. END SUMMARY.

1. BOTH ARGENTINA AND BRAZIL, AS INDICATED IN THEIR DRAFTS,
CONCUR THAT EXECUTIVE DIRECTOR'S REPORT HIS ISSUE (UNEP/
GC/44) CONSTITUTES SATISFACTORY BASIS FOR FURTHER ACTION.
BASIC DIFFERENCES BETWEEN TWO DRAFTS APPEAR TO BE (A)
ARGENTINE DRAFT WOULD APPROVE ED'S RECOMMENDATIONS
AND PROPOSALS, WHEREAS BRAZIL DRAFT SIMPLY EXPRESSES AP-
PRECIATION FOR REPORT; AND (B) ARGENTINES WOULD KEEP
FURTHER ACTION IN UNEP, WHEREAS BRAZIL WOULD TRANSFER
NEXT PHASE TO UNGA WITH RECOMMENDATION THAT INTERNATIONAL
COMMISSION TAKE OVER PREPARAT, GENERAL PRINCIPLES.

2. USDEL BELIEVES THERNBAY BE SOME HOPE OF COMPROMISING
FIRST ISSUE. COUNCIL APPROVAL THIS STAGE, EVEN IN PRIN-
CIPLE, NOT ESSENTIAL TO ASSIGNMENT THIS ISSUE, AS PRO-
POSED BY ED IN PARA 88, DOC. 44, TO INTERGOVERNMENTAL
WORKING GROUP OF EXPERTS. COUNCIL COULD SIMPLY REQUEST
IWG TAKE EXECUTIVE DIRECTOR'S SUGGESTIONS IN PARA 87 INTO
ACCOUNT AS WELL AS IDEAS AND SUGGESTIONS DERIVED FROM OTHER
SOURCES, INCLUDING THE INTERNATIONAL LAW COMMISSION. IN
SHORT, USDEL SEES POSSIBILITY SOME REVISION ARGENTINE
PARA 4 WHICH WOULD REFER ED'S RECOMMENDATION TO IWG
BUT FALL SHORT OF EXPLICIT ENDORSEMENT. BELIEVE,
IF AGREEMENT COULD BE GOTTEN THIS WOULD BE MORE
PALATABLE TO BRAZIL.

3. USDEL SEES NO REPEAT NO POSSIBILITY OF COMPROMISE ON
SECOND ISSUE. DEL BELIEVES ARGENTINES CAN MUSTER SUB-
STANTIAL MAJORITY IN SUPPORT OF PROPOSITION THAT
INITIATIVE THIS ISSUE SHOULD REMAIN IN UNEP. USDEL SHARES
THIS VIEW AND BELIEVES ANY EFFORT TO REMOVE UNEP FROM
ACTION ROLE WOULD BE ENTIRELY UNREALISTIC AND SUBVERSIVE
OF INTENDED ROLE OF UNEP AS RECOMMENDED AT STOCKHOLM AND
ENDORSED IN GA RES 2997 (XXVII).

4. REGARDING ROLE OF INTERNATIONAL LAW COMMISSION, TO
WHICH WE BELIEVE BRAZIL ATTACHES CONSIDERABLE IMPORTANCE,
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PAGE 03 NAIROB 03185 211426Z

WE SEE NO REASON WHY ARGENTINE RESOLUTION SHOULD NOT
BE EXPANDED TO MAKE SPECIFIC REFERENCE TO ROLE FOR THIS
COMMISSION IN WORK OF IWG. (FYI OUR IMPRESSION IS THAT
ARGENTINES SEE BRAZIL INVITATION TO INTERNATIONAL LAW
COMMISSION AS TANTAMOUNT TO SHELIVING ISSUE, AT LEAST SO
FAR AS ANY TIMELY ACTION IS CONCERNED. WE TAKE
THIS AS COMMENTARY ON THE WORKING PROCEDURES OF THE COM-
MISSION. DELEGATION WOULD APPRECIATE DEPARTMENTS

COMMENTS ON COMMISSION'S ACTIVITIES IN RELATION SIMILAR ISSUES. DEPARTMENT WILL NOTE REFERENCE TO INTERNATIONAL LAW COMMISSION IN PARA 29, DOC. 44. END FYI.

5. RECOMMENDATION: DELEGATION WILL MAKE EVERY EFFORT MAINTAIN LOW PROFILE, IN ACCORDANCE OUR LONG-STANDING POSITION THIS ISSUE. WE WILL CONTINUE URGE TWO SIDES MAKE EVERY EFFORT REACH MUTUALLY AGREEABLE FORMULATION, ADVANCING ON INFORMAL BASIS SUGGESTIONS IN PARA 2 AND PARA 4. ABOVE. DELEGATION BELIEVES, HOWEVER, THAT WEIGHT OF EVIDENCE LIES ON SIDE OF ARGENTINES AND PROVIDED ARGENTINES WILLING ACCEPT SOME ACCOMMODATION ALONG LINES FOREGOING SUGGESTIONS, WE BELIEVE IT TIME FOR US TO FISH OR CUT BAIT ON THIS ISSUE. IT IS BECOMING UNSEEMLY FOR THE US TO CONTINUE SITTING THIS ONE OUT. WE NOTE, INCIDENTALLY, FROM PARA 5F OF GENEVA'S 2588 THAT PART OF USXPOS NUPACKAGE CALLS FOR "ENVIRONMENTAL ASSESSMENTS AND CONSULTATIONS ON PLANNED ACTIVITIES WITH SIGNIFICANT POLLUTION RISKS." WE NOT CONVERSANT WITH ELEMENTS UNDERLYING THIS POSITION, BUT IT STRIKES US THAT THESE WORDS COULD WELL BE QUOTED BACK TO US IN THE CONTEXT OF UNEP'S PREOCCUPATION WITH ENVIRONMENTAL ASPECTS OF SHARED RESOURCES. FINALLY, WE BELIEVE ED HAS PRESENTED EXCELLENT DOCUMENT THIS ISSUE WHICH DESERVES SOMETHING MORE THAN NEUTRALITY FROM THE UNITED STATES.

6. DEPARTMENT'S COMMENT URGENTLY REQUESTED. THIS ITEM SCHEDULED TO BE TAKEN UP IN PLENARY ON THURSDAY, APRIL 24.
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PAGE 04 NAIROB 03185 211426Z

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